

## **REMARKS / ARGUMENTS**

### **1. INTRODUCTION**

Applicants have amended claims 1, 6 and 14. Accordingly, claims 1-6, 14, 15, 17 and 18 are presently pending in this application. Claims 8-13, 19 and 20 are withdrawn. Applicants respectfully request further examination and reconsideration of the application in view of the foregoing amendments and the following remarks.

### **2. AMENDMENTS TO THE CLAIMS**

Applicants have amended claim 1 to delete the duplicate claim number “1.”, as identified by the Examiner in Section 9 of the Office Action. Applicants have further amended the limitation in claim 1 “at least one of the plug walls defining a transversely located inlet or outlet opening therein,” to replace the term “therein” with “in said at least one of the plug walls,” as suggested by the Examiner in Section 13 of the Office Action.

In regard to the Examiner’s objection in Section 13 of the Office Action that there is no linear or planar element to which the terms “transversely” or “transverse” are relative to, Applicants have amended claims 1 and 14 to move the “transversely located” limitation further down in the claim to make it relative to the axially extending reciprocating plunger.

Applicants have also deleted the term “seal” from the limitation “seal means” in claims 1 and 14 so as to identify these limitations as means plus function limitations, as suggested by the Examiner in Section 13 of the Office Action.

Applicants have amended claim 6 to delete reference to “said at least one of the plug walls defining said transversely located inlet or outlet openings,” as suggested by the Examiner in Section 13 of the Office action.

Applicants have replaced the term “bypass valve” with “plug walls” in claim 14 as suggested by the Examiner in Section 13 of the Office Action.

Applicants submit that none of these amendments adds any new matter.

3. **OBJECTIONS TO ALLEDGED NEW MATTER ADDED TO SPECIFICATION**

In Sections 3, 4, 7 and 11, the Examiner has objected to the amendments made in the response filed on March 8, 2005 on the ground that they contain added material that is not supported in the original disclosure. Section 2163.06 of the MPEP provides that “information contained in any one of the specification, claims or drawings of the application as filed may be added to any other part of the application without introducing new matter”. Applicants respectfully note that the amendments made in the March 8, 2005 response are supported by the original application as follows:

- Applicants transverse the objection to “*at least one of the plug walls defines a transversely located inlet or outlet opening therein*” (as quoted and emphasized in Section 3 of the Office Action). This is supported by paragraph [0030] and Figure 9, as originally filed.
- Applicants transverse the objection to “*the actuator portion has seal means for preventing flow out of the actuator portion*” (as quoted and emphasized in Section 3 of the Office Action). This is supported by paragraph [0022] and Figures 3 and 4, as originally filed.
- Relatedly, Applicants further note the present amendments to claims 1 and 14 to clarify that the limitation “[[seal]] means for preventing flow out of the actuator portion” is a means plus function limitation. Pursuant to 35 US.S.C. § 112, ¶ 6, Applicants may present this limitation as a means plus function limitation, so as to encompass the “corresponding structure, material, or acts described in the specification and equivalents thereof.” Applicants may employ means plus function limitations, even if the specification discloses only one structure corresponding to the

function. *Cortland Line Co., Inc. v. Orvis Co., Inc.* 203 F.3d 1351, 1357, 53 USPQ2d 1734, 1737 (Fed. Cir. 2000).

- Applicants traverse the objection that there is no support in the originally filed specification for only one of the inlet and the outlet openings being transversely located in the plug walls and for another one of the inlet and outlet openings to be non-transversely located. This is supported by paragraph [0030] and Figure 9, as originally filed.

4. **OBJECTIONS BASED ON DISCLOSURE INFORMALITIES**

In regard to the objections in Section 8 of the Office Action, Applicants have cancelled paragraphs [0005] and [0006].

5. **CLAIM OBJECTIONS**

In Section 9 of the Office Action, the Examiner objects to claims 1 through 6, 14, 15, 17 and 18 because of various informalities. Applicants submits that these have been corrected through appropriate amendments.

6. **CLAIM REJECTIONS - 35 U.S.C. § 102**

In regard to the Examiner's objection to claims 1 through 6, 14, 15, 17 and 18, under 35 U.S.C. § 102(b), Schaefer does not show a reciprocating plunger that blocks and unblocks flow through an inlet or outlet located transversely to the axis of the plunger as in Applicants' claimed invention, so Applicants' claims are not anticipated by Schaefer.

Similarly, the bimetallic discs or the plunger rod in James do not block and unblock flow through an inlet or an outlet located transversely to the axis of the plunger rod, so James does not read on Applicants' claims either.

**7. CLAIM REJECTIONS - 35 U.S.C. § 103**

In regard to the Examiner's rejection of claim 15 under 35 U.S.C. § 103(a) as unpatentable over James in view of Seiler et al, it is submitted that claim 15 is allowable for the same reasons as are applicable to claim 14, upon which claim 15 depends.

**8. CONCLUSION**

For the above cited reasons, all of the claims presently pending in this application are believed to be allowable. If the Examiner has any further questions or concerns, the Examiner is invited to contact the Applicants' undersigned attorney.

Respectfully submitted,  
PINEO *et al*

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September 30, 2005

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